

Message Text

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43
ORIGIN EB-11

INFO OCT-01 AF-10 ADP-00 AID-20 CIAE-00 COME-00 DODE-00

FMC-04 INR-10 NSAE-00 RSC-01 CG-00 COA-02 L-03 H-03

SS-15 NSC-10 PA-03 PRS-01 USIA-15 AGR-20 TRSE-00

STR-08 /137 R

DRAFTED BY EB/MA - JPSTEINMETZ:SRP

8/24/73 EXT. 20703

APPROVED BY EB/TT - RAYMOND WALDMANN

EB/MA - RAWWEBB

FMC - AREESE/FWIRTH

MARAD - RRASMUS

AF/W - HWALKER

AID/COM/CS/T - RDUANE (PARA. 4)

EB/ICD/TRP - TTURQMAN (SUBS)

----- 065265

P 271841Z AUG 73

FM SECSTATE WASHDC

TO AMEMBASSY ACCRA PRIORITY

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E.O. 11652: N/A

TAGS: ETRN, GH, US

SUBJECT: GOG DISCRIMINATION AGAINST US SHIPPING LINE

REF: A) STATE 80181; B) ACCRA 2668; C) ACCRA 3495

1. DEPARTMENT APPRECIATES EMBASSY'S EFFORTS TO ASSIST FARRELL LINES IN OVERCOMING LOSS OF COCOA SHIPMENTS (REFTELS B AND C). NOW, HOWEVER, FEDERAL MARITIME COMMISSION (FMC), ACTING FURTHER ON FORMAL COMPLAINT BY FARRELL LINES HAS MADE COMPLETE REVIEW OF SITUATION, INCLUDING DIPLOMATIC EFFORTS TO DATE. FMC HAS CONCLUDED THAT COCOA EXPORT SHIPMENTS MADE BY CMB ARE CONTROLLED BY
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THE GOG WHICH FOR INTERNAL REASONS IS FOLLOWING DE FACTO DISCRIMINATORY POLICY FAVORING GHANA FLAG OR CHARTER VESSELS TO THE EXCLUSION OF FARRELL LINES. (FARRELL LINES HAS BEEN DENIED COCOA CARGOES SINCE FEBRUARY, 1972 NOT

OCTOBER, 1972 AS MENTIONED PARA. 1, REFTEL A. DURING PRIOR PERIOD THERETO FARRELL CARRIED A LIMITED AMOUNT OF COCOA ONLY AS A RESULT OF THE UNAVAILABILITY OF BLACK STAR OR VOLTA LINE SAILINGS). MOREOVER, FMC HAS NOTED FAILURE OF GOG TO ALTER ITS BASIC DISCRIMINATORY POLICY IN RESPONSE TO US DIPLOMATIC EFFORTS. CONSEQUENTLY, FMC IS CONTEMPLATING ACTION AGAINST GHANA FLAG VESSELS UNDER SECTION 19(B) OF THE MERCHANT MARINE ACT, 1920.

2. EMBASSY SHOULD MAKE FURTHER EFFORT ATTEMPT PERSUADE GHANAIANS MODIFY SHIPPING POLICY SO THAT QUESTION DISCRIMINATION AGAINST U.S. FLAG CARRIER DOES NOT TRIGGER SECTION 19(B) ACTION UNDER MERCHANT MARINE ACT. IN MAKING ITS APPROACH, EMBASSY SHOULD HAVE IN MIND FOLLOWING AIDE MEMOIRE WHICH DEPT. CONSIDERING HAVING DELIVERED IN ACCRA AND ON WHICH EMBASSY MAY WISH COMMENT.

3. (BEGIN TEXT OF AIDE MEMOIRE): THE EMBASSY OF THE UNITED STATES OF AMERICA WISHES TO DRAW ATTENTION TO AN URGENT AND SERIOUS PROBLEM WHICH HAS ARISEN IN OUR MARITIME RELATIONS. UNFORTUNATELY, EFFORTS TO RESOLVE THIS PROBLEM INFORMALLY OR AT THE PURELY COMMERCIAL LEVEL HAVE BEEN UNSUCCESSFUL.

THE EMBASSY UNDERSTANDS THE SITUATION TO BE AS FOLLOWS. SINCE FEBRUARY, 1972 FARRELL STEAMSHIP LINES, AN AMERICAN FLAG LINE SERVING THE US-GHANA TRADE, HAS BEEN DENIED COCOA EXPORT SHIPMENTS ORIGINATING IN GHANA. ALL EXPORTS TO THE UNITED STATES HAVE BEEN TRANSPORTED BY THE GHANA-FLAG BLACK STAR LINES OR THE VOLTA STEAMSHIP LINES, A CHARTER OPERATION OWNED BY GHANAIAN CITIZENS. MOREOVER, IN THE PERIOD PRIOR TO FEBRUARY, 1972 FARRELL LINES CARRIED ONLY SMALL AMOUNTS OF COCOA AND DID SO ONLY BECAUSE OF THE UNAVAILABILITY OF SAILINGS BY EITHER BLACK STAR OR VOLTA LINES.

AS THE RESULT OF BEING DENIED COCOA EXPORT SHIPMENTS, LIMITED OFFICIAL USE
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FARRELL LINES FILED A FORMAL COMPLAINT WITH THE FEDERAL MARITIME COMMISSION THAT FARRELL LINES WAS BEING DISCRIMINATED AGAINST BY THE GOVERNMENT OF GHANA WHICH CONTROLS COCOA EXPORT SHIPMENTS THROUGH THE GHANA COCOA MARKETING BOARD. IN ADDITION, THE CLAIM WAS MADE THAT BLACK STAR LINES BY ACCEPTING PAYMENT INGHANAIAN CURRENCY IS IN VIOLATION OF THE AMERICAN WEST AFRICA CONFERENCE AGREEMENT. THE FEDERAL MARITIME COMMISSION WAS REQUESTED TO TAKE ACTION ON BEHALF OF FARRELL LINES PURSUANT TO THE AUTHORITY UNDER SECTION 19(B) OF THE MERCHANT MARINE ACT OF 1920 WHICH READS AS FOLLOWS: (INDENT FOLLOWING PARAGRAPH)

"TO MAKE RULES AND REGULATIONS AFFECTING SHIPPING IN THE FOREIGN TRADE NOT IN CONFLICT WITH LAW AND ORDER TO ADJUST OR MEET GENERAL OR SPECIAL CONDITIONS UNFAVORABLE TO SHIPPING IN THE FOREIGN TRADE, WHETHER IN ANY PARTICULAR TRADE OR UPON ANY PARTICULAR ROUTE OR IN COMMERCE

GENERALLY, WHICH ARISE OUT OF OR RESULT FROM FOREIGN LAWS, RULES, OR REGULATIONS OR FROM COMPETITIVE METHODS OR PRACTICES EMPLOYED BY OWNERS, OPERATORS, AGENTS, OR MASTERS OF VESSELS OF A FOREIGN COUNTRY."

PRIOR TO CONSIDERING ACTION UNDER SECTION 19(B) OF THE MERCHANT MARINE ACT OF 1920, THE DEPARTMENT OF STATE INSTRUCTED THE EMBASSY TO DISCUSS THIS PROBLEM INFORMALLY WITH GHANAIAN AUTHORITIES IN THE HOPES OF RESOLVING THE DIFFICULTY IN A MUTUALLY SATISFACTORY MANNER. HOWEVER, REPRESENTATIONS MADE BY THE EMBASSY IN CONJUNCTION WITH FARRELL LINES WERE UNSUCCESSFUL AND THE FEDERAL MARITIME COMMISSION WAS LEFT WITH NO ALTERNATIVE BUT TO REEXAMINE THE SITUATION PURSUANT TO ITS STATUTORY RESPONSIBILITIES UNDER UNITED STATES LAW. UPON COMPLETING A REVIEW OF THE PROBLEM, THE FEDERAL MARITIME COMMISSION CONCLUDED THAT COCOA EXPORT SHIPMENTS MADE BY THE GHANA COCOA MARKETING BOARD ARE CONTROLLED BY THE GOVERNMENT OF GHANA WHICH FOR INTERNAL REASONS IS FOLLOWING A DE FACTO DISCRIMINATORY POLICY FAVORING GHANA FLAG OR CHARTER VESSELS TO THE DETRIMENT OF THE AMERICAN FLAG CARRIER FARRELL LINES. THE COMMISSION ALSO NOTED THE FAILURE OF THE GOVERNMENT LIMITED OFFICIAL USE
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OF GHANA TO ALTER ITS DISCRIMINATORY POLICY IN RESPONSE TO INFORMAL REPRESENTATIONS MADE BY THE EMBASSY. ACCORDINGLY, THE FEDERAL MARITIME COMMISSION HAS DETERMINED THAT THE DISCRIMINATION AGAINST FARRELL LINES MUST CEASE WITHIN THIRTY DAYS OF THE DATE OF THIS NOTE OR THE COMMISSION WILL TAKE THE NECESSARY STEPS TO OFFSET THE EFFECTS OF THIS DISCRIMINATION PURSUANT TO SECTION 19(B) OF THE MERCHANT MARINE ACT OF 1920. (END TEXT OF AIDE MEMOIRE)

4. EMBASSY AS APPROPRIATE SHOULD INFORM SHIPPING COMMISSIONER QUARTEY AND CMB CHAIRMAN HACKMAN THAT FMC IS READY TO MOVE FORWARD ON SECTION 19(B) ACTION IF GOG DOES NOT CEASE ITS DISCRIMINATORY POLICY AGAINST FARRELL LINES. EMBASSY SHOULD ALSO STRESS THAT SECTION 19 MEASURES CONTEMPLATED BY FMC NOT RELATED USAID REGULATIONS COVERING MARITIME TRANSPORTATION ARRANGEMENTS FOR AID SHIPMENTS TO GHANA (SEE PARA. 2, REFTEL C). POSSIBLE COUNTERVAILING MEASURES THAT THE FMC MAY CONSIDER IMPLEMENTING SHOULD GOG NOT CEASE DISCRIMINATING IN FAVOR

ITS SHIPPING INTERESTS INCLUDE IMPOSITION OF EQUALIZING FEES OR CHARGES; LIMITATION OF SAILINGS TO AND FROM THE UNITED STATES PORTS OR OF AMOUNT OR TYPE OF CARGO DURING A SPECIFIC PERIOD; SUSPENSION IN WHOLE OR IN PART OF ANY

OR ALL TARIFFS FILED WITH THE COMMISSION FOR CARRIAGE TO OR FROM UNITED STATES PORTS; AND ANY OTHER ACTION THAT COMMISSION FINDS NECESSARY AND APPROPRIATE IN THE PUBLIC INTEREST TO ADJUST OR MEET ANY CONDITIONS UNFAVORABLE TO SHIPPING IN THE FOREIGN TRADE OF THE UNITED STATES. LATTER COULD CONCEIVABLY INCLUDE COMPLETE EMBARGO ON DISCHARGE OF CARGO IN US PORTS BY GHANA FLAG VESSELS IF DEEMED APPROPRIATE BY FMC.

5. PLEASE ADVISE BY AUGUST 31, 1973. RUSH

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Message Attributes

Automatic Decaptoning: X
Capture Date: 10 MAY 1999
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: n/a
Control Number: n/a
Copy: SINGLE
Draft Date: 27 AUG 1973
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: golinofr
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1973STATE170064
Document Source: ADS
Document Unique ID: 00
Drafter: EB/MA - JPSTEINMETZ:SRP
Enclosure: n/a
Executive Order: N/A
Errors: n/a
Film Number: n/a
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1973/newtext/t19730869/abqceijn.tel
Line Count: 180
Locator: TEXT ON-LINE
Office: ORIGIN EB
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 4
Previous Channel Indicators:
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: A) STATE 80181; B) ACCRA 2668; C) ACCRA 3495
Review Action: RELEASED, APPROVED
Review Authority: golinofr
Review Comment: n/a
Review Content Flags:
Review Date: 09 JAN 2002
Review Event:
Review Exemptions: n/a
Review History: RELEASED <09-Jan-2002 by martinjw>; APPROVED <01 MAR 2002 by golinofr>
Review Markings:

Declassified/Released
US Department of State
EO Systematic Review
30 JUN 2005

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: GOG DISCRIMINATION AGAINST US SHIPPING LINE
TAGS: ETRN, GH, US
To: ACCRA
Type: TE
Markings: Declassified/Released US Department of State EO Systematic Review 30 JUN 2005